

Title 20-A: EDUCATION
Chapter 223: HEALTH, NUTRITION AND SAFETY

Table of Contents

Part 3. ELEMENTARY AND SECONDARY EDUCATION.....	
Subchapter 1. STUDENT HEALTH.....	3
Section 6301. STUDENT HEALTH.....	3
Section 6302. SCHOOL BUILDING VENTILATION.....	4
Section 6303. MEDICAID FOR HEALTH AND HUMAN SERVICES.....	4
Section 6304. AUTOMATED EXTERNAL DEFIBRILLATORS AND CARDIOPULMONARY RESUSCITATION.....	5
Section 6305. EPINEPHRINE AUTOINJECTORS; GUIDELINES; EMERGENCY ADMINISTRATION.....	5
Subchapter 2. IMMUNIZATION.....	7
Section 6351. IMMUNIZATION (REPEALED).....	7
Section 6352. IMMUNIZATION.....	7
Section 6353. DEFINITIONS.....	7
Section 6354. IMMUNIZATION.....	8
Section 6355. ENROLLMENT IN SCHOOL.....	8
Section 6356. EXCLUSION FROM SCHOOL.....	9
Section 6357. RECORDS; REPORT.....	9
Section 6358. RULES; REQUIREMENTS; REPORTS.....	10
Section 6359. IMMUNIZATION OF STUDENTS.....	10
Subchapter 3. SCHOOL HEALTH SERVICES.....	12
Section 6401. SCHOOL NURSE COORDINATOR (REPEALED).....	12
Section 6401-A. SCHOOL NURSE CONSULTANT POSITION.....	12
Section 6401-B. DUTIES.....	13
Section 6402. SCHOOL PHYSICIANS (REPEALED).....	13
Section 6402-A. SCHOOL HEALTH ADVISOR.....	13
Section 6403. REFERRAL FOR EXAMINATION (REPEALED).....	14
Section 6403-A. SCHOOL NURSE.....	14
Subchapter 4. HEALTH SCREENING.....	15
Section 6451. HEALTH SCREENING.....	15
Section 6452. SCREENING FOR SCOLIOSIS AND RELATED SPINAL ABNORMALITIES (REPEALED).....	15
Section 6453. NOTICE TO PARENTS OF RESULT OF SCREENING.....	15
Section 6454. ORAL HEALTH ASSESSMENTS.....	16
Section 6455. BODY MASS INDEX DATA.....	16
Subchapter 5. SANITARY FACILITIES.....	16
Section 6501. SANITARY FACILITIES.....	16
Subchapter 6. SAFETY.....	17
Section 6551. TUBERCULOSIS CONTROLS (REPEALED).....	17
Section 6552. FIREARMS.....	17
Section 6553. PROHIBITION OF HAZING.....	18

Section 6554. PROHIBITION ON BULLYING IN PUBLIC SCHOOLS.....	19
Subchapter 7. SCHOOL LUNCH AND MILK PROGRAM.....	22
Section 6601. ACCEPTANCE OF FEDERAL LAW.....	22
Section 6602. SCHOOL FOOD SERVICE PROGRAMS.....	23
Section 6603. FEDERAL FUNDS.....	26
Subchapter 7-A. SCHOOL SUBSTANCE ABUSE SERVICES	26
Section 6604. SUBSTANCE ABUSE PROGRAMS.....	26
Section 6605. DEPARTMENT ROLE.....	26
Section 6606. PARTICIPATION IN SUBSTANCE ABUSE SERVICES.....	27
Subchapter 7-B. PERFORMANCE-ENHANCING SUBSTANCES	27
Section 6621. PERFORMANCE-ENHANCING SUBSTANCES.....	27
Section 6622. AWARENESS.....	28
Section 6623. MARKETING.....	28
Section 6624. PROHIBITION ON USE.....	29
Subchapter 7-C. ELEMENTARY SCHOOL PHYSICAL EDUCATION.....	29
Section 6631. OBESITY AND CHRONIC DISEASE FUND.....	29
Subchapter 8. CHILD CARE SERVICES AND PARENTING EDUCATION	29
Section 6651. CHILD CARE SERVICES.....	29
Section 6652. PARENTING AND TRAINING IN CHILD DEVELOPMENT.....	30
Section 6653. RULES.....	31
Section 6654. SCHOOL-BASED CHILD CARE GRANTS.....	31
Subchapter 9. NUTRITION EDUCATION	31
Section 6661. NUTRITION EDUCATION.....	31
Section 6662. FOODS OUTSIDE SCHOOL MEAL PROGRAM.....	31

Maine Revised Statutes
Title 20-A: EDUCATION
Chapter 223: HEALTH, NUTRITION AND SAFETY

Subchapter 1: STUDENT HEALTH

§6301. STUDENT HEALTH

The following provisions apply to student health. [1981, c. 693, §§5, 8 (NEW).]

1. Duty of teacher. A teacher who has reason to believe that a student is a public health threat as a result of being infested with parasites, or having a communicable disease of the skin, mouth or eyes, shall inform the superintendent.

[1989, c. 414, §9 (RPR) .]

2. Duty of superintendent. A superintendent informed by a teacher under subsection 1 may:

A. Inform the student's parent:

(1) To cleanse the clothing and bodies of their children; and

(2) To furnish their children with the required home or medical treatment for the relief of their trouble so defined in subsection 1; [1983, c. 661, §4 (AMD).]

B. Exclude the student from the public schools until the student is no longer a public health threat; and [1989, c. 414, §10 (AMD).]

C. Exclude the student from public school as soon as safe and proper transportation home is available. [1983, c. 661, §4 (NEW).]

[1989, c. 414, §10 (AMD) .]

3. Duty of parent. A parent informed by a superintendent under subsection 2 shall promptly do what is reasonably necessary to ensure that the student is no longer offensive or dangerous.

[1981, c. 693, §§5, 8 (NEW) .]

4. Penalty. Any parent who fails to comply with subsection 3 shall be fined not more than \$5 for the first offense or \$10 for subsequent offenses.

[1981, c. 693, §§5, 8 (NEW) .]

5. Exclusion.

[1983, c. 661, §5 (RP) .]

5-A. Notification. The superintendent shall cause notice of the communicable disease to be given to the Department of Health and Human Services, in accordance with the requirements of Title 22, chapters 250 and 251, and rules issued under those chapters.

[2007, c. 598, §1 (AMD) .]

6. Authority and duties of the Department of Health and Human Services. The Department of Health and Human Services has the authority and duties prescribed in Title 22, chapters 250 and 251 with respect to the control of notifiable diseases and conditions and communicable diseases.

[2007, c. 598, §2 (AMD) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1983, c. 661, §§3-6 (AMD). 1989, c. 414, §§9,10 (AMD). 2003, c. 689, §B6 (REV). 2007, c. 598, §§1, 2 (AMD).

§6302. SCHOOL BUILDING VENTILATION

1. Applicability. This section applies to school buildings subject to basic school approval under section 4502 in which the heating, ventilation and air-conditioning system is mechanically driven.

[1991, c. 181, §2 (NEW) .]

2. Operation. Each school administrative unit shall ensure that the heating, ventilation and air-conditioning system is:

A. Maintained and operated to provide at least the quantity of outdoor air required by the state building standards code in effect at the time the building permit was issued or the heating, ventilation and air-conditioning system was installed, whichever is later; and [1991, c. 181, §2 (NEW) .]

B. Operated continuously during school activity hours except:

(1) During scheduled maintenance and emergency repairs; and

(2) During periods for which school officials can demonstrate to the commissioner's satisfaction that the quantity of outdoor air supplied by an air supply system that is not mechanically driven and by infiltration meets the outdoor air supply rate required by paragraph A. [1991, c. 181, §2 (NEW) .]

[1991, c. 181, §2 (NEW) .]

3. Inspection and record. Each school administrative unit is responsible for:

A. Inspection of the heating, ventilation and air-conditioning system at least annually and correction of any problems within a reasonable time; and [1991, c. 181, §2 (NEW) .]

B. Maintaining written records of heating, ventilation and air-conditioning system inspection and maintenance for at least 5 years. The superintendent shall make these records available for examination upon request. [1991, c. 181, §2 (NEW) .]

[1991, c. 181, §2 (NEW) .]

SECTION HISTORY

1991, c. 181, §2 (NEW) .

§6303. MEDICAID FOR HEALTH AND HUMAN SERVICES

A school administrative unit may receive funds from the Medicaid program pursuant to the United States Social Security Act, 42 United States Code, for the provision of preventive health, health, habilitation, rehabilitation and social services to eligible students. [2005, c. 2, Pt. D, §19 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF) .]

SECTION HISTORY

1995, c. 427, §1 (NEW). 2005, c. 2, §D19 (AMD). 2005, c. 2, §D72,74 (AFF). 2005, c. 12, §WW18 (AFF).

§6304. AUTOMATED EXTERNAL DEFIBRILLATORS AND CARDIOPULMONARY RESUSCITATION

School boards may place automated external defibrillators in occupied school buildings and at school athletic events. School personnel and members of the public may receive training on how to perform cardiopulmonary resuscitation and use automated external defibrillators in order to acquire the skills and confidence to respond to emergencies. [2007, c. 267, §1 (NEW).]

SECTION HISTORY

2007, c. 267, §1 (NEW).

§6305. EPINEPHRINE AUTOINJECTORS; GUIDELINES; EMERGENCY ADMINISTRATION

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative practice agreement" means a written and signed agreement between a physician licensed in this State or a school health advisor under section 6402-A and a school nurse under section 6403-A that provides for the prescription of epinephrine autoinjectors by the physician or school health advisor and administration of epinephrine autoinjectors by a school nurse or designated school personnel to students during school or a school-sponsored activity under emergency circumstances involving anaphylaxis. [2013, c. 526, §1 (NEW).]

B. "Designated school personnel" means those employees, agents or volunteers of a school administrative unit or an approved private school designated by a collaborative practice agreement between a physician licensed in this State or a school health advisor under section 6402-A and a school nurse under section 6403-A who have completed the training required by rule to provide or administer an epinephrine autoinjector to a student. [2013, c. 526, §1 (NEW).]

C. "Epinephrine autoinjector" means a device that automatically injects a premeasured dose of epinephrine. [2013, c. 526, §1 (NEW).]

D. "School" means a public or approved private school. [2013, c. 526, §1 (NEW).]

[2013, c. 526, §1 (NEW).]

2. Collaborative practice agreement; adoption authorized. A school administrative unit or an approved private school may authorize adoption of a collaborative practice agreement for the purposes of stocking and administering epinephrine autoinjectors as provided under this section. The administration of an epinephrine autoinjector in accordance with this section is not the practice of medicine.

[2013, c. 526, §1 (NEW).]

3. Collaborative practice agreement; authority. A collaborative practice agreement permits a physician licensed in this State or school health advisor under section 6402-A to prescribe an epinephrine autoinjector and direct a school nurse under section 6403-A to administer an epinephrine autoinjector in good faith to any student experiencing anaphylaxis during school or a school-sponsored activity. Pursuant to a collaborative practice agreement, a physician licensed in this State or school health advisor under section

6402-A may authorize the school nurse under section 6403-A during school or a school-sponsored activity to designate other school personnel with training required by rule to administer an epinephrine autoinjector if the school nurse is not present when a student experiences anaphylaxis.

[2013, c. 526, §1 (NEW) .]

4. Collaborative practice agreement; terms and provisions. A collaborative practice agreement must include the following information:

A. Name and physical address of the school; [2013, c. 526, §1 (NEW) .]

B. Identification and signatures of the physician or school health advisor under section 6402-A and school nurse under section 6403-A who are parties to the collaborative practice agreement, the dates the agreement is signed by each party and the beginning and end dates of the period of time within which the agreement is in effect; and [2013, c. 526, §1 (NEW) .]

C. Any other information considered appropriate by the physician or school health advisor under section 6402-A and school nurse under section 6403-A. [2013, c. 526, §1 (NEW) .]

[2013, c. 526, §1 (NEW) .]

5. Use of epinephrine autoinjectors without a collaborative practice agreement. The governing body of a school administrative unit or an approved private school may authorize a school nurse under section 6403-A and designated school personnel to administer an epinephrine autoinjector to a student in accordance with a prescription specific to the student on file with the school nurse and in accordance with section 254, subsection 5. The administration of an epinephrine autoinjector in accordance with this subsection is not the practice of medicine.

[2013, c. 526, §1 (NEW) .]

6. Manufacturer or supplier arrangement. A school administrative unit or an approved private school may enter into an arrangement with a manufacturer of epinephrine autoinjectors or a 3rd-party supplier of epinephrine autoinjectors to obtain epinephrine autoinjectors at fair market prices or reduced prices or for free.

[2013, c. 526, §1 (NEW) .]

7. Purchase from licensed pharmacies. A collaborative practice agreement under this section may provide that a school administrative unit or an approved private school may purchase epinephrine autoinjectors from a pharmacy licensed in this State.

[2013, c. 526, §1 (NEW) .]

8. Guidelines. By December 1, 2015 and as needed after that date, the department in consultation with the Department of Health and Human Services shall develop and make available to all schools guidelines for the management of students with life-threatening allergies. The guidelines must include, but are not limited to:

A. Guidelines regarding education and training for school personnel on the management of students with life-threatening allergies, including training related to the administration of an epinephrine autoinjector; [2013, c. 526, §1 (NEW) .]

B. Procedures for responding to life-threatening allergic reactions; [2013, c. 526, §1 (NEW) .]

C. A process for the development of individualized health care and allergy action plans for students with known life-threatening allergies; and [2013, c. 526, §1 (NEW) .]

D. Protocols to prevent exposure to allergens. [2013, c. 526, §1 (NEW).]

[2013, c. 526, §1 (NEW).]

9. Plan. By September 1, 2016 and as needed after that date, the governing body of a school administrative unit or an approved private school shall:

A. Implement a protocol based on the guidelines developed pursuant to subsection 8 for the management of students with life-threatening allergies enrolled in the schools under its jurisdiction; and [2013, c. 526, §1 (NEW).]

B. Make the protocol under paragraph A available on the governing body's publicly accessible website or the publicly accessible website of each school under the governing body's jurisdiction or, if those websites do not exist, make the protocol publicly available through other means as determined by the governing body. [2013, c. 526, §1 (NEW).]

The governing body of the school administrative unit or the approved private school shall annually attest to the department that the schools under its jurisdiction are implementing the protocol in accordance with the provisions of this subsection.

[2013, c. 526, §1 (NEW).]

SECTION HISTORY

2013, c. 526, §1 (NEW).

Subchapter 2: IMMUNIZATION

§6351. IMMUNIZATION

(REPEALED)

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1983, c. 661, §7 (RP). 1983, c. 806, §61 (AMD). 1983, c. 862, §59 (AMD).

§6352. IMMUNIZATION

To assure a safe and healthful school environment, the Legislature intends that the provisions of this subchapter on immunization shall apply in the schools of the State. [1983, c. 661, §8 (NEW).]

SECTION HISTORY

1983, c. 661, §8 (NEW).

§6353. DEFINITIONS

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [1983, c. 661, §8 (NEW).]

1. Certificate of immunization. "Certificate of immunization" means a written statement from a physician, nurse or health official who has administered an immunizing agent to a child, specifying the dosage administered and the date it was administered.

[1983, c. 661, §8 (NEW).]

2. Child. "Child" means and includes every child entering school.

[1983, c. 661, §8 (NEW).]

3. Disease. "Disease" means those conditions that are preventable by immunizing agent, as specified in rules.

[2001, c. 326, §1 (AMD) .]

4. Immunizing agent. "Immunizing agent" means a vaccine, antitoxin or other substances used to increase an individual's immunity to a disease.

[1983, c. 661, §8 (NEW) .]

5. Parent. "Parent" means a child's parent, legal guardian or custodian. A person shall be regarded as a child's custodian if that person is an adult and has assumed legal charge and care of the child.

[1983, c. 661, §8 (NEW) .]

6. Public health official. "Public health official" means a local health officer, the Director of the Bureau of Health, Department of Health and Human Services, or any designated employee or agent of the Department of Health and Human Services.

[1983, c. 661, §8 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

7. School. "School" means any public or private elementary or secondary school in the State.

[1983, c. 661, §8 (NEW) .]

8. Superintendent. "Superintendent" means the superintendent of schools of a school administrative unit, or a person designated by the superintendent, and the chief administrative officer of a private school.

[1983, c. 661, §8 (NEW) .]

SECTION HISTORY

1983, c. 661, §8 (NEW). 2001, c. 326, §1 (AMD). 2003, c. 689, §B6 (REV).

§6354. IMMUNIZATION

1. Immunization required. Except as otherwise provided under this subchapter, every parent shall cause to be administered to his child an adequate dosage of an immunizing agent against each disease.

[1983, c. 661, §8 (NEW) .]

2. Immunizing agent to meet standards. Any such immunizing agent shall meet standards for such biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services.

[1983, c. 661, §8 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1983, c. 661, §8 (NEW). 2003, c. 689, §B6 (REV).

§6355. ENROLLMENT IN SCHOOL

A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows. [2001, c. 326, §2 (AMD) .]

1. Written assurance. The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

[1983, c. 661, §8 (NEW) .]

2. Medical exemption. The parent or the child provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

[2001, c. 326, §2 (AMD) .]

3. Philosophical or religious exemption. The parent states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons.

[2001, c. 326, §2 (AMD) .]

SECTION HISTORY

1983, c. 661, §8 (NEW). 2001, c. 326, §2 (AMD).

§6356. EXCLUSION FROM SCHOOL

1. Public health official action. When a public health official has reason to believe that the continued presence in a school of a child who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the superintendent of the school. The superintendent shall cause the child to be excluded from school during the period of danger or until the child receives the necessary immunizing agent.

Whenever, as a result of this section, a child is absent from the public school for more than 10 days, the superintendent shall make arrangements to meet the educational needs of the child.

[2007, c. 598, §3 (AMD) .]

2. Superintendent's action. Notwithstanding the provisions of this subchapter on immunization against specified diseases, a superintendent may exclude from the public schools any child who is a public health threat, in accordance with section 6301, and the superintendent shall exclude from school any child or employee who has contracted or has been exposed to a communicable disease as directed by a physician after consultation with the Bureau of Health.

[1989, c. 414, §11 (AMD) .]

SECTION HISTORY

1983, c. 661, §8 (NEW). 1989, c. 414, §11 (AMD). 2007, c. 598, §3 (AMD).

§6357. RECORDS; REPORT

1. Record keeping. Each superintendent shall keep uniform records of the immunizations and immunization status of each child based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the child's permanent education records. These records

shall be confidential, except that state and local health personnel shall have access to them in connection with an emergency, as provided by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, United States Code, Title 20, Section 1232g(b) (1) (I) and regulations adopted under that Act.

[1983, c. 661, §8 (NEW) .]

2. Annual report of immunization status. By December 15th of each year, each superintendent shall submit to the Director of the Bureau of Health, Department of Health and Human Services, and to the commissioner a summary report of immunization status of the children entering school, as prescribed by rule.

[1983, c. 661, §8 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1983, c. 661, §8 (NEW). 2003, c. 689, §B6 (REV).

§6358. RULES; REQUIREMENTS; REPORTS

1. Rules authorized. The commissioner and the Director of the Bureau of Health, Department of Health and Human Services, shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules specifying those diseases for which immunization is required and establishing school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school. Rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

[2001, c. 326, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Local requirements authorized. Immunization requirements more stringent than the provisions of this subchapter may be adopted by ordinance enacted by a municipality, by regulation of a school board or by policy of a private school's governing board.

[1983, c. 661, §8 (NEW) .]

SECTION HISTORY

1983, c. 661, §8 (NEW). 2001, c. 326, §3 (AMD). 2003, c. 689, §B6 (REV).

§6359. IMMUNIZATION OF STUDENTS

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Certificate of immunization" means a written statement from a physician, nurse or public health official who has administered an immunizing agent to a student, specifying the dosage administered and the date it was administered. [1991, c. 146, §1 (AMD).]

B. "Chief administrative officer" means the person designated by the legal governing authority as president, administrator or director of a public or private post-secondary school. [1985, c. 771, §§2, 7 (NEW).]

C. "Disease" means those conditions that are preventable by immunizing agent, as specified in rules. [2001, c. 326, §4 (AMD).]

D. "Immunizing agent" means a vaccine, toxoid or other substance used to increase an individual's immunity to a disease. [1991, c. 146, §1 (AMD).]

E. "Parent" means a student's parent, legal guardian or custodian. A person shall be regarded as a student's custodian if that person is an adult and has assumed legal charge and care of the student. [1985, c. 771, §§2, 7 (NEW).]

F. "Public health official" means the Director of the Bureau of Health or any designated employee or agent of the Department of Health and Human Services. [1991, c. 146, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

G. "School" means any public or private, post-secondary school in the State including, but not limited to colleges, universities, community colleges and schools for the health professions. [1989, c. 443, §22 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF).]

G-1. "School health provider" means a physician, physician's assistant, registered nurse or nurse practitioner licensed to practice by the State and appointed by the chief administrative officer to provide health care to the student population. [1991, c. 146, §2 (NEW).]

H. "Student" means any person born after 1956 who attends school full time or who is a candidate for a degree, diploma or graduate certificate. [1987, c. 71, (RPR).]

[2001, c. 326, §4 (AMD); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF); 2003, c. 689, Pt. B, §6 (REV) .]

2. Immunization. Except as otherwise provided under this section, every student shall have administered an adequate dosage of an immunizing agent against each disease as specified by rule.

Any such immunizing agent shall meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services.

[2001, c. 326, §5 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

3. Enrollment of school. No chief administrative officer may permit any student to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

A. The parent or the student provides a physician's written statement or a written statement from a school health provider that immunization against one or more of the diseases may be medically inadvisable. [1991, c. 146, §3 (AMD).]

B. The student or the parent, if the student is a minor, states in writing a sincere religious belief, which is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons. [2001, c. 326, §6 (AMD).]

[2001, c. 326, §6 (AMD) .]

4. Exclusion from school. When a public health official has reason to believe that the continued presence in a school of a student who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the chief administrative officer of the school. The chief administrative officer shall cause the student to be excluded from school during the period of danger or until the student receives the necessary immunizing agent.

[1985, c. 771, §§2, 7 (NEW) .]

5. Records; report. Each chief administrative officer shall keep uniform records of the immunizations and immunization status of each student, based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the student's permanent records.

By December 15th of each year, each chief administrative officer shall submit to the Director of the Bureau of Health a summary report of immunization status of the students entering school, as prescribed by rule. A blank summary report form will be provided to each chief administrative officer by the Bureau of Health.

[1985, c. 771, §§2, 7 (NEW) .]

6. Rules; requirements; reports. The Director of the Bureau of Health shall adopt rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements and medical exceptions to receiving vaccines or toxoids for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school.

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board.

[1991, c. 146, §4 (AMD) .]

A student who is enrolled in a distance education program offered by a school and who does not physically attend any classes or programs at a school facility, including a campus, center or site of that school, or at a school facility, including a campus, center or site of any other school, is exempt from the provisions of this section. [2001, c. 87, §1 (NEW).]

SECTION HISTORY

1985, c. 771, §§2,7 (NEW). 1987, c. 71, (AMD). 1989, c. 443, §22 (AMD). 1991, c. 146, §§1-4 (AMD). 2001, c. 87, §1 (AMD). 2001, c. 326, §§4-6 (AMD). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2003, c. 689, §B6 (REV).

Subchapter 3: SCHOOL HEALTH SERVICES

§6401. SCHOOL NURSE COORDINATOR

(REPEALED)

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1985, c. 797, §38 (AMD). 1989, c. 700, §A49 (AMD). P&SL 1993, c. 67, §1 (AMD). 1995, c. 322, §6 (RP).

§6401-A. SCHOOL NURSE CONSULTANT POSITION

1. Establishment. The position of school nurse consultant is established within the department. The Policy Director of Special Services within the department shall supervise the school nurse consultant.

[2011, c. 380, Pt. DD, §2 (NEW) .]

2. Qualifications. The school nurse consultant must be licensed as a registered professional nurse in the State and have a master's degree in nursing or a related field and experience in school health care or community nursing.

[2011, c. 380, Pt. DD, §2 (NEW) .]

SECTION HISTORY

2011, c. 380, Pt. DD, §2 (NEW).

§6401-B. DUTIES

The school nurse consultant under section 6401-A shall provide statewide nursing leadership, consultation and direction for coordinated school health care programs. The school nurse consultant shall: [2011, c. 380, Pt. DD, §3 (NEW).]

1. Liaison. Serve as a liaison and resource expert in school nursing and school health care program areas for local, regional, state and national school health care provider and policy-setting groups;

[2011, c. 380, Pt. DD, §3 (NEW) .]

2. Information. Monitor, interpret, synthesize and disseminate relevant information related to school health care trends, school nursing practice, health-related policy changes, legal issues in school nursing and school health care program implementation and professional development;

[2011, c. 380, Pt. DD, §3 (NEW) .]

3. Staff development. Foster and promote staff development for school nurses by planning and providing orientation, educational offerings and networking with universities and other providers of continuing education to meet identified needs; and

[2011, c. 380, Pt. DD, §3 (NEW) .]

4. Standards. Gather and analyze data relevant to the school health care program and monitor standards to promote school nursing excellence and optimal health of school children.

[2011, c. 380, Pt. DD, §3 (NEW) .]

SECTION HISTORY

2011, c. 380, Pt. DD, §3 (NEW).

§6402. SCHOOL PHYSICIANS

(REPEALED)

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1985, c. 258, §1 (RP).

§6402-A. SCHOOL HEALTH ADVISOR

Each school board shall appoint one or more physicians or family or pediatric nurse practitioners to act as school health advisor. [2013, c. 78, §1 (AMD).]

1. Duties. The school health advisor shall advise the administrative unit on school health issues, policies and practices and may also perform any other health-related functions assigned by the board.

[2013, c. 78, §1 (AMD) .]

2. Other functions. A school health advisor may perform other medical and health-related duties assigned by the school board, which may include all or some of the following:

A. Examine and diagnose students referred by teachers and other school employees to protect against the outbreak of contagious diseases in the schools; [1985, c. 258, §2 (NEW).]

B. Examine students for participation in physical education and athletic activities; [1985, c. 258, §2 (NEW) .]

C. Advise and serve as medical consultant to the school nurse; or [1985, c. 258, §2 (NEW) .]

D. Examine school employees and property if the school health advisor believes it is necessary to protect the health of students. [2013, c. 78, §1 (AMD).]

[2013, c. 78, §1 (AMD) .]

3. Prohibition. A school health advisor may not treat any student examined under this subchapter unless the school health advisor is also the student's personal health care provider. A school health advisor that advises a school board pursuant to subsection 1 or performs other functions under subsection 2 may not act outside the scope of practice of the physician or nurse practitioner who functions as a school health advisor as established by law or rule of the applicable licensing board.

[2013, c. 78, §1 (AMD) .]

4. Appointment. Appointment is on a yearly basis.

[2013, c. 78, §1 (AMD) .]

SECTION HISTORY

1985, c. 258, §2 (NEW). 2013, c. 78, §1 (AMD).

§6403. REFERRAL FOR EXAMINATION

(REPEALED)

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1985, c. 258, §3 (RP).

§6403-A. SCHOOL NURSE

Each school board shall appoint at least one school nurse for the school administrative unit. [1985, c. 258, §4 (NEW).]

1. Duties. The school nurse shall supervise and coordinate the health services and health-related activities required by this Title.

[1985, c. 258, §4 (NEW) .]

2. Other functions. The school nurse shall also perform such other health-related activities as are assigned by the school board.

[1985, c. 258, §4 (NEW) .]

3. Appointment. To fulfill the role of school nurse, the school board shall appoint a registered professional nurse who meets any additional certification requirements established by the state board.

[1985, c. 258, §4 (NEW) .]

4. Special contract for services. The school board may provide school nurse services through special agreements with a public health agency. All nurses who serve as school nurses under those agreements shall be registered professional nurses who meet applicable certification requirements.

[1985, c. 258, §4 (NEW) .]

5. Guidelines. The commissioner shall issue guidelines on the provision of school health services and health-related activities.

[1985, c. 258, §4 (NEW) .]

SECTION HISTORY

1985, c. 258, §4 (NEW).

Subchapter 4: HEALTH SCREENING

§6451. HEALTH SCREENING

1. Student right to screening for sight and hearing defects. Each student shall be screened periodically to determine whether they have sight or hearing defects.

[1981, c. 693, §§5, 8 (NEW) .]

2. Commissioner's duties. The commissioner shall:

A. After consultation with the Commissioner of Health and Human Services, adopt rules and provide school administrative units with assistance and materials to carry out this subsection; [1981, c. 693, §§5, 8 (NEW); 2003, c. 689, Pt. B, §7 (REV).]

B. Furnish to the administrators of the school administrative units the prescribed directions for the tests of sight and hearing; and [1981, c. 693, §§5, 8 (NEW).]

C. Furnish test cards, record and report forms and other useful materials for carrying out the purpose of this section. [1981, c. 693, §§5, 8 (NEW).]

[1981, c. 693, §§5, 8 (NEW); 2003, c. 689, Pt. B, §7 (REV) .]

3. Exempt students. A student whose parent objects in writing to screening on religious grounds shall not be screened unless a sight or hearing defect is reasonably apparent.

[1981, c. 693, §§5, 8 (NEW) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 2003, c. 689, §B7 (REV).

§6452. SCREENING FOR SCOLIOSIS AND RELATED SPINAL ABNORMALITIES

(REPEALED)

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1989, c. 700, §A50 (AMD). 1989, c. 730, (AMD). 2003, c. 689, §§B6,7 (REV). 2009, c. 147, §1 (RP).

§6453. NOTICE TO PARENTS OF RESULT OF SCREENING

The school board shall inform the parent of a student suffering from a disease or defect. [1981, c. 693, §§ 5, 8 (NEW).]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW).

§6454. ORAL HEALTH ASSESSMENTS

The commissioner shall cooperate with the Commissioner of Health and Human Services in implementing a grant program developed in accordance with Title 22, section 2128 to increase the provision of oral health assessments for children entering elementary school. A child whose parent objects in writing to an oral health assessment on religious grounds may not be assessed. [2005, c. 653, §1 (NEW).]

SECTION HISTORY

2005, c. 653, §1 (NEW).

§6455. BODY MASS INDEX DATA

1. Collection of data. A school nurse or trained screener shall collect body mass index data from students in the school administrative unit in accordance with rules of the Department of Health and Human Services. Data may not be collected from a student whose parent or guardian objects on religious or philosophical grounds.

[2009, c. 407, §1 (NEW) .]

2. Confidentiality. Except as provided in subsection 3, body mass index data collected pursuant to subsection 1 are confidential and are not subject to disclosure pursuant to Title 1, chapter 13.

[2009, c. 407, §1 (NEW) .]

3. Reporting of data. A school nurse shall report the data collected under subsection 1 to the Department of Health and Human Services, Maine Center for Disease Control and Prevention. Data reported pursuant to this subsection may be reported in the aggregate only and may not identify an individual student.

[2009, c. 407, §1 (NEW) .]

4. Funding. In the event federal funds are not available for collecting and reporting data pursuant to this section, the State, municipality or school administrative unit is under no obligation to use any state, municipal or school administrative unit funds to carry out the purposes of this section.

[2009, c. 407, §1 (NEW) .]

5. Rules. The Department of Health and Human Services shall adopt routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A to implement this section. The rules must at a minimum:

A. Establish a schedule and protocol for the collection of data from students; and [2009, c. 407, §1 (NEW) .]

B. Provide a method for uniform reporting of the collected data to the Maine Center for Disease Control and Prevention. [2009, c. 407, §1 (NEW) .]

[2009, c. 407, §1 (NEW) .]

SECTION HISTORY

2009, c. 407, §1 (NEW).

Subchapter 5: SANITARY FACILITIES

§6501. SANITARY FACILITIES

Sanitary facilities shall be provided as follows. [1981, c. 693, §§5, 8 (NEW) .]

1. Toilets. A school administrative unit shall provide clean toilets in all school buildings, which shall be:

A. Of the flush water closet type and connected to a sewer, filter bed or septic tank, or of another design approved by the Department of Health and Human Services; [1981, c. 693, §§5, 8 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

B. Separated according to sex and accessible only by separate entrances and exits; [1981, c. 693, §§5, 8 (NEW).]

C. Installed so that privacy, cleanliness and supervision are assured; and [1981, c. 693, §§5, 8 (NEW).]

D. Free from all obscene markings. [1981, c. 693, §§5, 8 (NEW).]

[1981, c. 693, §§5, 8 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

2. Maintenance. Each school administrative unit shall provide for the cleaning and repair of its toilet facilities.

[1981, c. 693, §§5, 8 (NEW) .]

3. Inspection. The school board shall annually cause an inspection of the sanitary conditions of the school administrative unit's school buildings to insure compliance with this section.

[1981, c. 693, §§5, 8 (NEW) .]

4. Rules. The state board may adopt or amend rules to implement this section.

[1981, c. 693, §§5, 8 (NEW) .]

5. Penalty. Failure to comply with this section is subject to penalties under section 6801-A.

[1991, c. 548, Pt. A, §12 (AMD) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1991, c. 548, §A12 (AMD). 2003, c. 689, §B6 (REV) .

Subchapter 6: SAFETY

§6551. TUBERCULOSIS CONTROLS

(REPEALED)

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1985, c. 258, §§5-10 (AMD). 1989, c. 414, §12 (RP) .

§6552. FIREARMS

1. Prohibition. A person may not possess a firearm on public school property or the property of an approved private school or discharge a firearm within 500 feet of public school property or the property of an approved private school.

[2009, c. 614, §2 (AMD) .]

2. Exceptions. The provisions under subsection 1 do not apply to the following.

A. The prohibition on the possession and discharge of a firearm does not apply to law enforcement officials. [2009, c. 614, §3 (RPR).]

B. The prohibition on the possession of a firearm does not apply to the following persons, if the possession is authorized by a written policy adopted by the school board:

- (1) A person who possesses an unloaded firearm for use in a supervised educational program approved and authorized by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; and
- (2) A person who possesses an unloaded firearm that is stored inside a locked vehicle in a closed container, a zipped case or a locked firearms rack while the person is attending a hunter's breakfast or similar event that:
 - (a) Is held during an open firearm season established under Title 12, Part 13 for any species of wild bird or wild animal;
 - (b) Takes place outside of regular school hours; and
 - (c) Is authorized by the school board. [2009, c. 614, §3 (RPR).]

C. The prohibition on possession and discharge of a firearm does not apply to a person possessing a firearm at a school-operated gun range or a person discharging a firearm as part of a school-sanctioned program at a school-operated gun range if the gun range and the program are authorized by a written policy adopted by the school's governing body. [2009, c. 614, §3 (NEW).]

[2009, c. 614, §3 (RPR) .]

3. Penalty. A person who violates this section is guilty of a Class E crime.

[1981, c. 693, §§ 5, 8 (NEW) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1989, c. 414, §13 (AMD). 2007, c. 67, §1 (AMD). 2009, c. 614, §§2, 3 (AMD).

§6553. PROHIBITION OF HAZING

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Injurious hazing" means any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in a public school. [1999, c. 351, §4 (AMD).]

B. "Violator" means any person or any organization which engages in injurious hazing. [1989, c. 531, (NEW).]

[1999, c. 351, §4 (AMD) .]

2. Adoption of policy. The school board shall adopt a policy which establishes that "injurious hazing," either on or off school property, by any student, staff member, group or organization affiliated with the public school is prohibited.

[1989, c. 531, (NEW) .]

3. Penalties. The school board shall establish penalties for violation of the rules established in subsection 2. The penalties shall include, but not be limited to, provisions for:

A. In the case of a person not associated with the public school, the ejection of the violator from school property; [1989, c. 531, (NEW).]

B. In the case of a student, administrator or staff violator, the individual's suspension, expulsion or other appropriate disciplinary action; and [1989, c. 531, (NEW).]

C. In the case of an organization affiliated with the public school which authorizes hazing, rescission of permission for that organization to operate on school property or receive any other benefit of affiliation with the public school. [1989, c. 531, (NEW).]

These penalties shall be in addition to any other civil or criminal penalty to which the violator or organization may be subject.

[1989, c. 531, (NEW).]

4. Administrative responsibility. The school board shall assign responsibility for administering the policy to the superintendent of schools and establish procedures for appealing the action or lack of action of the superintendent.

[1989, c. 531, (NEW).]

5. Dissemination. The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school.

[1989, c. 531, (NEW).]

SECTION HISTORY

1989, c. 531, (NEW). 1999, c. 351, §4 (AMD).

§6554. PROHIBITION ON BULLYING IN PUBLIC SCHOOLS

1. Findings. All students have the right to attend public schools that are safe, secure and peaceful environments. The Legislature finds that bullying and cyberbullying have a negative effect on the school environment and student learning and well-being. These behaviors must be addressed to ensure student safety and an inclusive learning environment. Bullying may be motivated by a student's actual or perceived race; color; religion; national origin; ancestry or ethnicity; sexual orientation; socioeconomic status; age; physical, mental, emotional or learning disability; gender; gender identity and expression; physical appearance; weight; family status; or other distinguishing personal characteristics or may be based on association with another person identified with such a characteristic. Nothing in this section may be interpreted as inconsistent with the existing protection, in accordance with the First Amendment of the United States Constitution, for the expression of religious, political and philosophical views in a school setting.

[2011, c. 659, §3 (NEW).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

- (1) Meeting with the student and the student's parents;
- (2) Reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;
- (4) Counseling;

- (5) Anger management;
- (6) Health counseling or intervention;
- (7) Mental health counseling;
- (8) Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (9) Community service; and
- (10) In-school detention or suspension, which may take place during lunchtime, after school or on weekends. [2011, c. 659, §3 (NEW) .]

B. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

- (1) Has, or a reasonable person would expect it to have, the effect of:
 - (a) Physically harming a student or damaging a student's property; or
 - (b) Placing a student in reasonable fear of physical harm or damage to the student's property;
- (2) Interferes with the rights of a student by:
 - (a) Creating an intimidating or hostile educational environment for the student; or
 - (b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school; or
- (3) Is based on a student's actual or perceived characteristics identified in Title 5, section 4602 or 4684-A, or is based on a student's association with a person with one or more of these actual or perceived characteristics or any other distinguishing characteristics and that has the effect described in subparagraph (1) or (2).

"Bullying" includes cyberbullying. [2011, c. 659, §3 (NEW) .]

C. "Cyberbullying" means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant. [2011, c. 659, §3 (NEW) .]

D. "Retaliation" means an act or gesture against a student for asserting or alleging an act of bullying. "Retaliation" also includes reporting that is not made in good faith on an act of bullying. [2011, c. 659, §3 (NEW) .]

E. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles. [2011, c. 659, §3 (NEW) .]

[2011, c. 659, §3 (NEW) .]

3. Prohibition. A person may not engage in bullying on school grounds. This section does not modify or eliminate a school's obligation to comply with state and federal constitutional protections and civil rights laws applicable to schools.

[2011, c. 659, §3 (NEW) .]

4. Scope. This section applies to bullying that:

A. Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or [2011, c. 659, §3 (NEW) .]

B. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in subsection 2, paragraph B. [2011, c. 659, §3 (NEW).]

[2011, c. 659, §3 (NEW).]

5. Adoption of policy. When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

A. A provision identifying the responsibility of students and others on school grounds to comply with the policies; [2011, c. 659, §3 (NEW).]

B. A clear statement that bullying, harassment and sexual harassment and retaliation for reporting incidents of such behavior are prohibited; [2011, c. 659, §3 (NEW).]

C. A provision outlining the responsibility of a superintendent to implement and enforce the bullying policies required by this section, including:

(1) A requirement that the superintendent designate a school principal or other school personnel to administer the policies at the school level; and

(2) A procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level; [2011, c. 659, §3 (NEW).]

D. A requirement that school staff members, coaches and advisors for extracurricular and cocurricular activities report incidents of bullying to the school principal or other school personnel designated by the superintendent pursuant to paragraph C; [2011, c. 659, §3 (NEW).]

E. Procedures for students, school staff members, parents and others to report incidents of bullying. The procedures must permit reports of bullying to be made anonymously; [2011, c. 659, §3 (NEW).]

F. A procedure for promptly investigating and responding to incidents of bullying, including written documentation of reported incidents and the outcome of the investigations; [2011, c. 659, §3 (NEW).]

G. A clear statement that any person who engages in bullying, who is determined to have knowingly and falsely accused another of bullying or who engages in acts of retaliation against a person who reports a suspected incident of bullying is subject to disciplinary actions, which actions may include but are not limited to imposing a series of graduated consequences that include alternative discipline; [2011, c. 659, §3 (NEW).]

H. A procedure for a person to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with the policies adopted pursuant to this subsection. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent; [2011, c. 659, §3 (NEW).]

I. A procedure to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services; [2011, c. 659, §3 (NEW).]

J. A process for the school to communicate to the parent of a student who has been bullied the measures being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying; and [2011, c. 659, §3 (NEW).]

K. A procedure for communicating with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate. [2011, c. 659, §3 (NEW).]

School boards may combine the policies and procedures required by this subsection with nondiscrimination, harassment and sexual harassment policies and grievance procedures.

[2011, c. 659, §3 (NEW) .]

6. Dissemination of policy. Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

[2011, c. 659, §3 (NEW) .]

7. Application. A superintendent or the superintendent's designee shall ensure that every substantiated incident of bullying is addressed.

A. The prohibition on bullying and retaliation and the attendant consequences apply to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation. [2011, c. 659, §3 (NEW).]

B. Any contractor, visitor or volunteer who engages in bullying must be barred from school grounds until the superintendent is assured that the person will comply with this section and the policies of the school board. [2011, c. 659, §3 (NEW).]

C. Any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school. [2011, c. 659, §3 (NEW).]

[2011, c. 659, §3 (NEW) .]

8. Transparency and monitoring. Each school administrative unit shall file its policies to address bullying and cyberbullying with the department.

[2011, c. 659, §3 (NEW) .]

9. Staff training. A school administrative unit shall provide professional development and staff training in the best approaches to implementing this section.

[2011, c. 659, §3 (NEW) .]

SECTION HISTORY

2011, c. 659, §3 (NEW).

Subchapter 7: SCHOOL LUNCH AND MILK PROGRAM

§6601. ACCEPTANCE OF FEDERAL LAW

The State shall comply with the following laws in consideration of the receipt of benefits under them: [1981, c. 693, §§ 5, 8 (NEW).]

1. The National School Lunch Program Act. The National School Lunch Program Act, enacted June 4, 1946, and applicable amendments;

[2011, c. 379, §1 (AMD) .]

2. The Child Nutrition Act. The Child Nutrition Act, enacted October 11, 1966, and applicable amendments; and

[2011, c. 379, §2 (AMD) .]

3. Summer food service program for children. The federal summer food service program for children, as established by 42 United States Code, Section 1761.

[2011, c. 379, §3 (NEW) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 2011, c. 379, §§1-3 (AMD).

§6602. SCHOOL FOOD SERVICE PROGRAMS

Public schools shall provide nonprofit school food service programs as follows. [1981, c. 693, §§5, 8 (NEW) .]

1. Participation. A public school shall participate in food service programs.

A. A public school shall participate in the National School Lunch Program in accordance with 7 Code of Federal Regulations, Part 210 (2007) and provide Type A meals as determined by the United States Department of Agriculture. [2007, c. 539, Pt. II, §1 (NEW) .]

B. A public school that serves breakfast shall provide all students who are eligible for free and reduced-price meals under paragraph A a meal that meets the requirements of the federal School Breakfast Program set forth in 7 Code of Federal Regulations, Part 220 (2007) at no cost to the student. The State shall provide funding equal to the difference between the federal reimbursement for a free breakfast and the federal reimbursement for a reduced-price breakfast for each student eligible for a reduced-price breakfast and receiving breakfast. [2007, c. 539, Pt. II, §1 (NEW) .]

C. A school administrative unit shall participate in the federal summer food service program for children established in 42 United States Code, Section 1761 as required under this paragraph. The commissioner shall assist school administrative units subject to the requirements of this paragraph in developing a plan to participate in the federal summer food service program for children and in obtaining federal, state and private funds to pay for this program. Beginning with the 2013-2014 school year, a school administrative unit with at least one public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall participate in the federal summer food service program for children in accordance with 42 United States Code, Section 1761 during the following summer vacation, subject to the provisions of this paragraph.

A school administrative unit with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall operate a federal summer food service program in the area served by that public school during the following summer vacation if that public school operates a summer educational or recreational program. The school administrative unit is required to operate the federal summer food service program only on days that the public school operates the summer educational or recreational program. The school administrative unit may collaborate with a service institution to operate the federal summer food service program.

A school administrative unit with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year that does not operate a summer educational or recreational program shall collaborate with a service institution to operate a federal summer food service program if there is a service institution that provides food service to children in the summer in the area served by the public school.

Notwithstanding this paragraph, a school administrative unit that is required to operate a federal summer food service program may choose not to operate such a program if it determines by a vote of the governing body of the school administrative unit after notice and a public hearing that operating such a program would be financially or logistically impracticable.

For purposes of this paragraph, "service institution" means a public or private nonprofit school, a municipal or county government, a public or private nonprofit higher education institution or a private nonprofit summer camp. [2013, c. 445, §1 (AMD).]

[2013, c. 445, §1 (AMD) .]

2. Exceptions. The following are exempt from subsection 1, paragraphs A and B:

A. All secondary schools limited to students in grades 9, 10, 11 and 12; and [1981, c. 693, §§5, 8 (NEW).]

B. A school administrative unit authorized by the commissioner under subsection 9 to postpone the establishment of the program. [1981, c. 693, §§5, 8 (NEW).]

[2011, c. 379, §5 (AMD) .]

3. Administration. The school board shall administer and operate the food service programs. The school board:

A. Shall make all contracts to provide material, personnel and equipment necessary to carry out section 6601; and [1981, c. 693, §§5, 8 (NEW).]

B. Shall hire the necessary employees to manage and operate their school food service programs. [1981, c. 693, §§5, 8 (NEW).]

[1981, c. 693, §§5, 8 (NEW) .]

4. Funds. The following shall be used to pay for the administration and operation of food service programs:

A. State funds, gifts and appropriations for school food service programs; and [1981, c. 693, §§5, 8 (NEW).]

B. Receipts from the sale of meals under food service programs. [1981, c. 693, §§5, 8 (NEW).]

[1981, c. 693, §§5, 8 (NEW) .]

5. Rules. The commissioner shall adopt or amend, with the state board's approval, rules under this subchapter, including rules about the qualifications of food service programs' personnel and rules to implement the federal summer food service program for children under subsection 1, paragraph C.

[2011, c. 379, §6 (AMD) .]

6. Nutrition report. The commissioner may assess the nutritional benefits of school lunch programs and school breakfast programs and report to the state board.

[2007, c. 539, Pt. II, §2 (AMD) .]

7. Technical assistance. The commissioner may give technical assistance to a school board concerning a food service program and may assist in training food service program personnel.

[1981, c. 693, §§5, 8 (NEW) .]

8. Application for postponement. An administrative unit, which had been authorized by the commissioner to postpone the establishment of a National School Lunch Program, may apply to the commissioner for a renewal of the postponement. The commissioner may grant the requested postponement provided that:

A. The school board has held a public hearing on its proposed application; and [1981, c. 693, §§5, 8 (NEW) .]

B. One of the following conditions is met:

- (1) It has been documented to the commissioner's satisfaction that the administrative unit lacks space for the program and there is no appropriate alternative source of meals for the students;
- (2) It is impossible for the administrative unit to contract for or to otherwise procure Type A meals for its students; or
- (3) The lack of need for the program, as determined by the school board is documented to the commissioner's satisfaction and was evident at the public hearing. [1983, c. 422, §18 (AMD) .]

If the postponement is granted for the conditions in paragraph B, subparagraphs (1) and (2), it shall be for 3 years. If the postponement is granted for the condition in paragraph B, subparagraph (3), it shall be for 4 years.

[1987, c. 395, Pt. A, §68 (AMD) .]

8-A. State board review of commissioner's decisions. A school administrative unit or interested parties may request that the state board reconsider decisions made by the commissioner in subsection 8. The state board shall have the authority to overturn decisions made by the commissioner. In exercising this power, the state board is limited by this section.

[1987, c. 395, Pt. A, §69 (NEW) .]

9. Annual review of postponement. The commissioner shall annually review the conditions in the school administrative units which have been granted a postponement. On finding that the conditions in a unit have changed so that a postponement is no longer warranted, the commissioner may require that the unit establish a National School Lunch Program at the start of the next school year.

[1981, c. 693, §§5, 8 (NEW) .]

10. Petition by 1% of residential unit. Whenever petitioned by 1% of the residents of a unit, the commissioner shall call a public hearing on the postponement prior to the next annual review.

[1981, c. 693, §§5, 8 (NEW) .]

11. The state may administer. The state may administer the programs under the United States Child Nutrition Act, Public Law 89-642 in nonprofit, private schools, provided that the State shall not be required to appropriate or distribute state funds for meals served in private schools to those private schools.

[1983, c. 276, (NEW) .]

12. Local Produce Fund. The Local Produce Fund is established within the Department of Education. The fund is authorized to receive revenue from public and private sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of the fiscal year must be carried forward to the next fiscal year. The fund must be used to match \$1 for every \$3 a school administrative unit pays for produce or minimally processed foods purchased directly from a farmer or farmers' cooperative in the State, to a maximum state contribution of \$1,000. At the end of the fiscal year, the school administrative unit may provide the department with receipts documenting purchases pursuant

to this subsection during that year. For purposes of this subsection, "minimally processed" means only the washing, cleaning, trimming, drying, sorting and packaging of food items or a combination of those activities. Reimbursement or partial reimbursement to school administrative units may only be made up to the amount available in the fund. Failure to reimburse does not constitute an obligation on behalf of the State to a school administrative unit.

[2001, c. 447, §1 (NEW) .]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW). 1983, c. 276, (AMD). 1983, c. 422, §18 (AMD). 1985, c. 263, (AMD). 1987, c. 395, §§A68,A69 (AMD). 1989, c. 875, §G1 (AMD). 1991, c. 9, §II3 (AMD). 2001, c. 447, §1 (AMD). 2007, c. 539, Pt. IIII, §§1, 2 (AMD). 2011, c. 379, §§4-6 (AMD). 2013, c. 445, §1 (AMD).

§6603. FEDERAL FUNDS

The Treasurer of State shall receive and disburse all federal funds received under this subchapter.

[1981, c. 693, §§ 5, 8 (NEW).]

SECTION HISTORY

1981, c. 693, §§5,8 (NEW).

Subchapter 7-A: SCHOOL SUBSTANCE ABUSE SERVICES HEADING: PL 1989, C. 708, §2 (AMD)

§6604. SUBSTANCE ABUSE PROGRAMS

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

A. "Chemical health coordinator" means a person who serves as the coordinator of a local school administrative unit's chemical primary and secondary prevention and education program. [1987, c. 395, Pt. A, §70 (NEW).]

[1987, c. 395, Pt. A, §70 (NEW) .]

2. Local programs. School units may institute special programs to address health and related problems.

[1987, c. 395, Pt. A, §70 (NEW) .]

To further these objectives, school units may employ specialized personnel such as chemical health coordinators and others knowledgeable in the field of substance abuse and may cooperate with public and private agencies in substance abuse education, prevention, early intervention, rehabilitation referral and related programs. [1987, c. 395, Pt. A, §70 (NEW).]

SECTION HISTORY

1987, c. 395, §A70 (NEW).

§6605. DEPARTMENT ROLE

1. Personnel. The commissioner shall appoint, subject to the Civil Service Law, supervisors and consultants knowledgeable in the area of substance abuse.

[1987, c. 395, Pt. A, §70 (NEW) .]

2. Technical assistance. The department, through its supervisors and consultants, shall offer technical assistance to public and approved private schools and cooperating community-based organizations to aid in the establishment and implementation of school-based substance abuse programs and health education curricula.

[1987, c. 395, Pt. A, §70 (NEW) .]

3. Cooperation; coordination. The department shall carry out its planning activities related to alcohol and drug education and prevention subject to coordination with the Alcohol and Drug Abuse Planning Committee.

[1987, c. 395, Pt. A, §70 (NEW) .]

4. Information collection and sharing. The Department of Education shall be authorized to gather information about substance abuse prevention and intervention programs initiated by state or federal agencies whose efforts are directed toward private and public schools of the State, for the purpose of sharing that information with school administrative units.

[1989, c. 700, Pt. A, §51 (AMD) .]

SECTION HISTORY

1987, c. 395, §A70 (NEW). 1989, c. 700, §A51 (AMD).

§6606. PARTICIPATION IN SUBSTANCE ABUSE SERVICES

In compliance with written school policy adopted by a school board, the school board may require that a student who has been determined to be in violation of school rules governing substance abuse or alcohol or drug possession participate in a substance abuse assessment, education or support group service offered by the school. The school board shall provide for notice to the parents or legal guardian of a student required to participate in such services. If the school board elects to do so, it may request a parent or legal guardian to participate in the services. [1989, c. 708, §3 (NEW).]

SECTION HISTORY

1989, c. 708, §3 (NEW).

Subchapter 7-B: PERFORMANCE-ENHANCING SUBSTANCES HEADING: PL 2005, C. 674, §3 (NEW)

§6621. PERFORMANCE-ENHANCING SUBSTANCES

1. List of banned substances. The Commissioner of Health and Human Services shall develop a list of banned performance-enhancing substances. The list must include, but is not limited to, the following:

A. Ephedrine; [2005, c. 674, §3 (NEW).]

B. Synephrine, also known as bitter orange; [2005, c. 674, §3 (NEW).]

C. Dehydroepiandrosterone; [2005, c. 674, §3 (NEW).]

D. All dietary supplements as defined by 21 United States Code, Section 321, Subsection (ff) that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations; and [2005, c. 674, §3 (NEW).]

E. All other substances that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations except for:

(1) A substance that is otherwise illegal in this State; or

(2) A substance the use of which by minors is illegal in this State. [2005, c. 674, §3 (NEW) .]

[2011, c. 657, Pt. AA, §57 (AMD) .]

2. Amendments to list. The Commissioner of Health and Human Services shall amend the banned substances list each time a dietary supplement or other substance referenced in subsection 1, paragraph D or E is added to the list of banned substances maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations. For a substance to be prohibited under section 6624 in a particular school year, the substance must be added to the banned substances list maintained under this section no later than July 1st preceding that school year.

[2011, c. 657, Pt. AA, §57 (AMD) .]

3. Notification. The Commissioner of Health and Human Services shall notify the department, the Maine School Management Association and the Maine Principals' Association or their successor organizations when the initial list of banned substances is complete and of any subsequent changes to the list. The department shall notify all school administrative units that have students who participate in sports of the availability of the list. The Commissioner of Health and Human Services shall post the list on the publicly accessible website of the Department of Health and Human Services.

[2011, c. 657, Pt. AA, §57 (AMD) .]

SECTION HISTORY

2005, c. 674, §3 (NEW). 2011, c. 657, Pt. AA, §57 (AMD).

§6622. AWARENESS

The department shall request assistance from a statewide organization of principals in distributing information regarding the dangers associated with performance-enhancing substances. Each school administrative unit shall review its drug and alcohol policies and update such policies to address the use of performance-enhancing substances. [2005, c. 674, §3 (NEW) .]

SECTION HISTORY

2005, c. 674, §3 (NEW).

§6623. MARKETING

A teacher, athletic director, sports coach or other school official or employee may not sell, distribute or promote a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A school may not accept a sponsorship from a manufacturer of a performance-enhancing substance on the list of banned substances. A person who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that person is employed or serving in a coaching or other official capacity. [2005, c. 674, §3 (NEW) .]

SECTION HISTORY

2005, c. 674, §3 (NEW).

§6624. PROHIBITION ON USE

A student participating in interscholastic sports may not use a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A student who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that student is enrolled. [2005, c. 674, §3 (NEW) .]

SECTION HISTORY

2005, c. 674, §3 (NEW) .

Subchapter 7-C: ELEMENTARY SCHOOL PHYSICAL EDUCATION**§6631. OBESITY AND CHRONIC DISEASE FUND**

1. Fund established. The Obesity and Chronic Disease Fund, referred to in this section as "the fund," is established as an interest-bearing account administered by the department and the Department of Health and Human Services.

[2011, c. 108, §1 (AMD) .]

2. Revenue. Any private or public funds appropriated, allocated or dedicated to the fund must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years.

[2009, c. 264, §1 (NEW) .]

3. Use of fund; health and physical fitness. Balances in the fund may be used for the necessary expenses of the department and the Department of Health and Human Services in the administration of the fund. Balances in the fund may be used to pay for new equipment, new staff training, new personnel, new administrative costs and other expenses not related to an existing physical education program and for the implementation of a new physical education program for elementary schools.

[2011, c. 108, §2 (AMD) .]

SECTION HISTORY

2009, c. 264, §1 (NEW). 2011, c. 108, §§1, 2 (AMD) .

**Subchapter 8: CHILD CARE SERVICES AND PARENTING
EDUCATION HEADING: PL 1987, C. 767, §1 (NEW)****§6651. CHILD CARE SERVICES**

School administrative units may develop school-based child care services. [1987, c. 767, §1 (NEW) .]

Private secondary schools, approved by the department in section 2951 for tuition, and whose school enrollments include at least 60% publicly funded students as determined by the previous school year's October and April average enrollment as reflected in records on file in the department, may also develop school-based child care services. The sending school administrative unit shall not be liable for any costs except those costs that have been approved by the school board of the sending school administrative unit. [1989, c. 414, §14 (NEW) .]

1. Purpose. The purpose of the school-based child care services is to:

- A. Make it possible for student parents to continue attending or return to school; [1987, c. 767, §1 (NEW).]
- B. Provide parenting education and training in child development for teenage parents; and [1987, c. 767, §1 (NEW).]
- C. Aid teacher recruitment. [1987, c. 767, §1 (NEW).]

[1987, c. 767, §1 (NEW) .]

2. Program. School-based child care services shall:

- A. Be developmentally based; [1987, c. 767, §1 (NEW).]
- B. Be available on a priority basis first to children of students in the school administrative unit or private school and 2nd to children of teachers or other employees in the unit or private school; and [1989, c. 414, §15 (AMD).]
- C. Include training in parenting and child development for the student parents of the children in the program. [1987, c. 767, §1 (NEW).]

[1989, c. 414, §15 (AMD) .]

3. Subsidizable costs for school administrative units under the School Finance Act of 1985.

[2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 2, Pt. D, §20 (RP); 2005, c. 12, Pt. WW, §18 (AFF) .]

4. Cost to teachers and other employees. A school administrative unit or private school may offer school-based child care services to teachers and other employees of the unit or private school in accordance with a policy established by the local school board that establishes the basis for participation. The school administrative unit or private school shall charge a fee for provision of such services.

[2005, c. 683, Pt. B, §10 (AMD) .]

5. Costs to students. There shall be no cost to the student for enrolling a child in a child care service offered by a school administrative unit or private school if the student has an educational plan, approved by the school unit or private school, leading to academic progress and the attainment of reasonable educational goals.

[1989, c. 414, §16 (AMD) .]

6. Subsidizable cost of operating programs in private secondary schools.

[2009, c. 571, Pt. V, §1 (RP) .]

SECTION HISTORY

1987, c. 767, §1 (NEW). 1989, c. 414, §§14-17 (AMD). 2005, c. 2, §D20 (AMD). 2005, c. 2, §§D72,74 (AFF). 2005, c. 12, §WW18 (AFF). 2005, c. 683, §§A26,B10 (AMD). 2009, c. 571, Pt. V, §1 (AMD).

§6652. PARENTING AND TRAINING IN CHILD DEVELOPMENT

A school administrative unit or private secondary school which provides child care services under section 6651 shall offer a one-semester course in parenting and child development to secondary school students. [1989, c. 414, §18 (AMD).]

SECTION HISTORY

1987, c. 767, §1 (NEW). 1989, c. 414, §18 (AMD).

§6653. RULES

The department may adopt rules governing this subchapter pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. [1987, c. 767, §1 (NEW).]

SECTION HISTORY

1987, c. 767, §1 (NEW).

§6654. SCHOOL-BASED CHILD CARE GRANTS

The department and the Department of Health and Human Services are authorized to provide assistance to school administrative units to assist the units in establishing school-based child care services. [2005, c. 2, Pt. D, §21 (AMD); 2005, c. 2, Pt. D, §§72, 74 (AFF); 2005, c. 12, Pt. WW, §18 (AFF).]

SECTION HISTORY

1989, c. 551, §1 (NEW). 1991, c. 550, (AMD). 2003, c. 689, §B6 (REV). 2005, c. 2, §D21 (AMD). 2005, c. 2, §§D72,74 (AFF). 2005, c. 12, §WW18 (AFF).

Subchapter 9: NUTRITION EDUCATION HEADING: PL 2005, C. 435, §1 (NEW)

§6661. NUTRITION EDUCATION

The department shall work with public schools to encourage nutrition education for students and for teachers and staff as part of coordinated school health programs and school food service programs and in accordance with chapter 222. The department shall work with public schools to encourage an outreach component for students' parents and guardians as part of a coordinated school health program. The department may adopt rules to implement the purposes of this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 435, §1 (NEW).]

SECTION HISTORY

2005, c. 435, §1 (NEW).

§6662. FOODS OUTSIDE SCHOOL MEAL PROGRAM

1. Nutritional information. After August 31, 2008, food service programs must post caloric information for prepackaged a la carte menu items at the point-of-decision.

[2005, c. 435, §1 (NEW) .]

2. Food and beverages outside school lunch programs. The department shall adopt rules to establish standards for food and beverages sold or distributed on school grounds but outside of school meal programs. These standards must include maximum portion sizes, except for portion sizes for milk, that are consistent with federal school nutrition standards. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Rules adopted pursuant to this subsection do not apply to food and beverages sold or offered at community events or fund-raisers held outside the hours of the normal school day and to products prepared in culinary arts programs provided by career and technical schools and programs.

[2011, c. 224, §1 (AMD) .]

3. Food and beverage advertising. Brand-specific advertising of food or beverages is prohibited in school buildings or on school grounds except for food and beverages meeting standards for sale or distribution on school grounds in accordance with rules adopted under subsection 2.

For the purposes of this subsection, "advertising" does not include advertising on broadcast media or in print media such as newspapers and magazines, clothing with brand images worn on school grounds or advertising on product packaging.

[2007, c. 156, §1 (NEW) .]

SECTION HISTORY

2005, c. 435, §1 (NEW). 2007, c. 156, §1 (AMD). 2011, c. 224, §1 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.